

104TH CONGRESS
2D SESSION

H. R. 2935

To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 1996

Mr. BUNN of Oregon (for himself, Mr. WHITE, Ms. DUNN of Washington, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ninth Circuit Court
5 of Appeals Reorganization Act of 1996”.

6 **SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.**

7 Section 41 of title 28, United States Code, is
8 amended—

1 (1) in the matter before the table, by striking
 2 out “thirteen” and inserting in lieu thereof “four-
 3 teen”;

4 (2) in the table, by striking out the item relat-
 5 ing to the ninth circuit and inserting in lieu thereof
 6 the following new item:

“Ninth California, Hawaii, Guam, Northern
 Mariana Islands.”;

7 and

8 (3) between the last 2 items of the table, by in-
 9 serting the following new item:

“Twelfth Alaska, Arizona, Idaho, Montana, Ne-
 vada, Oregon, Washington.”.

10 **SEC. 3. NUMBER OF CIRCUIT JUDGES.**

11 The table contained in section 44(a) of title 28, Unit-
 12 ed States Code, is amended—

13 (1) by striking out the item relating to the
 14 ninth circuit and inserting in lieu thereof the follow-
 15 ing new item:

“Ninth 15”;

16 and

17 (2) by inserting between the last 2 items at the
 18 end thereof the following new item:

“Twelfth 13”.

19 **SEC. 4. PLACES OF CIRCUIT COURT.**

20 The table contained in section 48(a) of title 28, Unit-
 21 ed States Code, is amended—

1 (1) by striking out the item relating to the
 2 ninth circuit and inserting in lieu thereof the follow-
 3 ing new item:

 “Ninth San Francisco, Los Angeles.”;

4 and

5 (2) by inserting between the last 2 items at the
 6 end thereof the following new item:

 “Twelfth Portland, Seattle, Phoenix.”.

7 **SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES AND CLERK OF**
 8 **THE COURT.**

9 (a) CIRCUIT JUDGES.—No later than 60 days after
 10 the date of the enactment of this Act, the judicial council
 11 for the former ninth circuit shall make assignments of the
 12 circuit judges of the former ninth circuit to the new ninth
 13 circuit and the twelfth circuit, consistent with the provi-
 14 sions of this Act.

15 (b) CLERK OF THE COURT.—The Clerk of the Court
 16 for the Twelfth Circuit United States Court of Appeals
 17 shall be located in Portland, Oregon.

18 **SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

19 Each judge who is a senior judge of the former ninth
 20 circuit on the day before the effective date of this Act may
 21 elect to be assigned to the new ninth circuit or to the
 22 twelfth circuit and shall notify the Director of the Admin-
 23 istrative Office of the United States Courts of such elec-
 24 tion.

1 **SEC. 7. SENIORITY OF JUDGES.**

2 The seniority of each judge—

3 (1) who is assigned under section 5, or

4 (2) who elects to be assigned under section 6,
5 shall run from the date of the commission of such judge
6 as a judge of the former ninth circuit.

7 **SEC. 8. APPLICATION TO CASES.**

8 The provisions of the following paragraphs of this
9 section apply to any case in which, on the day before the
10 effective date of this Act, an appeal or other proceeding
11 has been filed with the former ninth circuit:

12 (1) If the matter has been submitted for deci-
13 sion, further proceedings in respect of the matter
14 shall be had in the same manner and with the same
15 effect as if this Act had not been enacted.

16 (2) If the matter has not been submitted for de-
17 cision, the appeal or proceeding, together with the
18 original papers, printed records, and record entries
19 duly certified, shall, by appropriate orders, be trans-
20 ferred to the court to which it would have gone had
21 this Act been in full force and effect at the time
22 such appeal was taken or other proceeding com-
23 menced, and further proceedings in respect of the
24 case shall be had in the same manner and with the
25 same effect as if the appeal or other proceeding had
26 been filed in such court.

1 (3) A petition for rehearing or a petition for re-
2 hearing en banc in a matter decided before the effec-
3 tive date of this Act, or submitted before the effec-
4 tive date of this Act and decided on or after the ef-
5 fective date as provided in paragraph (1) of this sec-
6 tion, shall be treated in the same manner and with
7 the same effect as though this Act had not been en-
8 acted. If a petition for rehearing en banc is granted,
9 the matter shall be reheard by a court comprised as
10 though this Act had not been enacted.

11 **SEC. 9. DEFINITIONS.**

12 For purposes of this Act, the term—

13 (1) “former ninth circuit” means the ninth ju-
14 dicial circuit of the United States as in existence on
15 the day before the effective date of this Act;

16 (2) “new ninth circuit” means the ninth judicial
17 circuit of the United States established by the
18 amendment made by section 2(2) of this Act; and

19 (3) “twelfth circuit” means the twelfth judicial
20 circuit of the United States established by the
21 amendment made by section 2(3) of this Act.

22 **SEC. 10. ADMINISTRATION.**

23 The court of appeals for the ninth circuit as con-
24 stituted on the day before the effective date of this Act
25 may take such administrative action as may be required

1 to carry out this Act. Such court shall cease to exist for
2 administrative purposes on July 1, 1997.

3 **SEC. 11. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act shall
5 take effect 60 days after the date of the enactment of this
6 Act.

